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June 26, 2019

Hon. Magistrate Judge
James Orenstein
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Stevens Baldo Lighty, PLLC v. Anthony J. DellUniversita et al.
Civil Action No.: 2:18-cv-1600

Judge Orenstein:

Pursuant to Your Honor's April 5, 2019 Case Management and Scheduling Order, section II(a), and Fed. R. Civ. P. 26(c)(1), defendants respectfully are requesting a stay of discovery proceedings due to Anthony J. Delluniversita suffering two strokes first on June 16, 2019 and then again on June 23, 2019.

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, a court may grant a protective order, such as a stay of discovery, for "good cause." See Fed. R. Civ. P. 26(c)(1).

Hong Leong Finance Ltd. (Singapore) v. Pinnacle Performance Ltd., 297 F.R.D. 69, 72 (S.D.N.Y. 2013). Courts consider the following factors in determining whether a stay is appropriate: 1) whether the defendant has made a strong showing that the plaintiff's claim is unmeritorious; 2) the breadth of discovery and the burden of responding to it; and 3) the risk of unfair prejudice to the party opposing the stay. See Hong Leong, 297 F.R.D. at 72; Telesca v. Long Island Housing Partnership, Inc., 2006 WL 1120636, at *1 (E.D.N.Y. Apr. 27, 2006); In re Currency Conversion, 2002 WL 88278, at *1.

Anthony J. suffered a stroke on Sunday June 16, 2019 which kept him hospitalized until Thursday June 20, 2019. Anthony J. suffered significant vision impairment due to the stroke. Currently he is unable to see anything clearly or in its entirety. He was informed by his doctor that it was unlikely he would regain his vision how it was. He will have to undertake extensive physical therapy. After being released on Thursday June 20, 2019, he was again taken by ambulance to Southside Hospital in Bay Shore, New York early on Sunday morning June 23, 2019, as he was found unconscious and unresponsive in his home. He has been diagnosed with having another stroke and is currently still hospitalized in Southside Hospital. As a result of this stroke he currently is unable to walk without the assistance of a wheelchair or multiple hospital staff. The doctors do believe that will not be permanent. There is no set time for his release from

the hospital as of today June 26, 2019. He may be released to a rehabilitation facility at some point.

The defendants have made a strong showing that the plaintiff's claims are unmeritorious and will rely on the motion to dismiss that has been filed on the issues. Discovery has been taking place. Plaintiff's counsel has served three requests on Paul A., Gail A. and Anthony J. All have been responded to. Counsel served a notice to admit on Paul A., which will be responded to within a week. Counsel also took the deposition of Kelly Walsh and non-party Ronald Alber. Plaintiff already has what is alleged to be over 5,000 copies of checks from a PCA bank account, documents from Mass Mutual regarding the retirement accounts of Gail A. and Anthony J. and additional real estate documents. A stay of discovery will not prejudice the plaintiff. Mr. Walsh stated to the court at the April 5, 2019 discovery conference that, "he was essentially done with discovery and had all he needed and was ready for depositions."

Anthony J. cannot competently participate in discovery in his current state. I will certainly provide the Court with any documentation it may require. I have discharge papers from the hospitalization last week and can obtain reports and proof of Anthony J.'s hospitalization this week. I will not provide plaintiff's counsel with any documentation regarding Anthony J.'s medical condition. Counsel has proven to be intrusive and grossly inappropriate throughout this litigation. I cannot trust what he would do with such sensitive information.

Based on Mr. Walsh's insensitive and indecent response to a previous application made by me requesting an adjournment due to my wife having surgery and Mr. Walsh questioning my representation and the truthfulness of it. I caution Mr. Walsh in his response, and to understand that regardless of his opinion of any defendant, this is an individual who is very ill at the moment. He has children and grandchildren and may very well not survive should another episode occur. If it is not possible to demonstrate any level of compassion maybe what counsel's opinion on this situation is, is better left unsaid.

Respectfully I request that discovery be stayed until the health of Anthony J. allows him to participate in a competent way.

Thank you.

Respectfully,

/s Anthony P. DellUniversita

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